

**REMARKS**

Entry of this response under 37 C.F.R. § 1.116 because no new claims or issues are raised.

Claims 1-3, 5, 6, 8-17, and 19-24 are pending in the application.

It is noted that the claims amendments are made only for pointing out the claimed invention more particularly, and not for distinguishing the invention over the prior art, narrowing the claims, or for statutory requirements for patentability. Further Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

**Claim 17** stands rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter.

**Claims 1-3, 5, 6, 8-17, and 19-24** stand rejected under 35 U.S.C. § 102 as being unpatentable under Smith et al. (U.S. Patent Publication No. 2002/0032621) (hereinafter Smith) in view of Linden et al (U.S. Patent Publication No. 2002/0198882) (hereinafter Linden).

Applicant respectfully traverses these rejections in the following discussion.

**I. THE CLAIMED INVENTION**

An exemplary aspect of the claimed invention, as recited in independent claim 1, is directed to a display for scaling a plurality of bids and items, on a display window. The display scales viewable objects representing the bids and items, such that as a number of bids and items increases, a size of the viewable objects representing the bids and objects decreases.

Another exemplary aspect of the claimed invention, as recited in independent claim 17, is directed to a method of interactive bid evaluation for a combinatorial auction, including scaling a plurality of bids and items displayed on a display window.

Another exemplary aspect of the claimed invention, as recited in independent claim 22, is directed to a method of evaluating bids in a combinatorial auction including structuring bid and item information on a visual interface of a display and providing an analysis capability for facilitating evaluation and selection of at least one solution encompassing bids. The visual interface allows a user to directly manipulate data points in the visual interface to explore an information space of potential solutions and suppliers and to discover at least one solution optimal to the user's needs.

Conventional bid evaluations present information in a non-intuitive manner. The decision processes are formalized and based on decision tree and pruning techniques. Furthermore, conventional bid evaluations are presented with no explanation, simply making their decisions as a "black box." Finally, conventional bid evaluations do not provide interactive analysis features.

The claimed invention, however, "scales viewable objects representing said bids and items, such that as a number of bids and items increases, a size of said viewable objects representing said bids and objects decreases," as recited in independent claim 1. This is important for explaining a proposed bid in a reverse auction. *See* the Application, page 18, lines 5-11.

## II. THE ALLEGED SECTION 101 REJECTION

On page 3 of the Office Action, the Examiner rejects claim 17 for allegedly being

directed to non-statutory subject matter. While Applicant completely disagrees since the claim wording is clearly directed to a specific machine, by reference to "displayed on a display window," Applicant has amended the claim to speed prosecution. Despite there clearly being no known way to satisfy the plain meaning of the claim language using a mental process. Therefore, independent claim 17 is tied to statutory subject matter.

Accordingly, Applicant requests withdrawal of this rejection.

### **III. THE ALLEGED PRIOR ART REFERENCE**

On page 4 of the Office Action, the Examiner alleges that Smith and Linden the invention of **claims 1-3, 5, 6, 8-17, and 19-24.**

To establish a *prima facie* case of obviousness, several basic criteria must be met. For example, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j). In addition, as stated in *KSR*, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness (*In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in *KSR Int'l. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007)).

Smith teaches a special type of auction using "bid transformation" and "lot aggregation." On the other hand, the claimed invention recites an interactive visual system for decision support that helps discover an optimal solution (for maximal price, for instance) for a combinatorial auction. That is, does not teach combinatorial auctions, an interactive visual

system for decision support ("interactive bid evaluation system" in claim 1), or "viewable objects" (as recited in claim 2).

Therefore, Smith fails to teach or suggest the claimed invention. In particular, where the Examiner alleges that Smith teaches scaling a plurality of bids," as recited in independent claim 1, Smith only teaches auction management software across a network. That is, there is no teaching or suggestion of "scaling of viewable objects," as recited in independent claim 1.

Furthermore, the Examiner admits that Smith fails to teach "a real-time recommendation window." The Examiner then alleges that Linden makes up for Smith's deficiencies.

Linden teaches personalization / customization of web pages for specific users / sessions based on the user's actions in the session. Even in combination with Smith, Linden is not pertinent to the present application, because the claimed invention does not deal with personalization, for example, and is not limited to a Web environment.

Thus, at paragraphs [0236 and above], Linden fails to teach or suggest, among other things, "a real-time recommendation window for providing at least one recommendation on what action to take next in generating the ad hoc solution," as recited in claim 1. Instead, contrary to the Examiner's allegations, Linden only teaches personalization and not a real-time ad-hoc solution for an auction. The claimed ad hoc solution being "interactively generate an ad hoc solution by using visual operations," that also allows "for comparing the ad hoc solution with an optimal solution generated by said processor." That is, the real-time product referrals of Linden do not teach or suggest a real-time ad hoc solution, as recited in the independent claims.

Accordingly, Linden and Smith, either alone or in combination, fails to teach or

suggest the invention as recited in independent claims 1, 17, and 22

With respect to claims 2-3, 5, 6, 8-16, and 19-24, which depend from independent claims 1, 17, and 22, respectively, each of these claims contains all the limitations contained within independent claims 1, 17, and 22 and are therefore also in condition for allowance.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

### III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-17 and 19-24, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

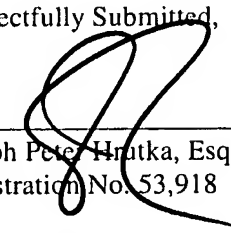
Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Date: 12/31/2008

**McGinn IP Law Group, PLLC**  
8321 Old Courthouse Road, Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
**Customer No. 21254**

Respectfully Submitted,



\_\_\_\_\_  
Joseph Peter Hrutka, Esq.  
Registration No. 53,918

Sean M. McGinn, Esq.  
Registration No. 34,386